

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

TROY A. BARTHOLOMEW,

Petitioner,

vs.

KATHY MENDOZA-POWERS, Warden,

Respondent.

CASE NO. 08-CV-1270-IEG (NLS)

ORDER:

(1) ADOPTING THE MAGISTRATE JUDGE'S REPORT [Doc. No. 20]; and

(2) DENYING THE PETITION FOR WRIT OF HABEAS CORPUS.

Petitioner Troy A. Bartholomew (“Petitioner”), a state prisoner proceeding pro se, filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging the Board of Parole Hearings’ decision of November 14, 2006 denying parole. (Doc. No. 1.) Petitioner alleged his confinement without being granted parole after his minimum eligible parole date has elapsed violates his due process and equal protection rights under the United State Constitution.

On November 10, 2008, Respondent Kathy Mendoza-Power (“Respondent”) filed a Motion to Dismiss Writ of Habeas Corpus. (Doc. No. 8.) Respondent argued Petitioner failed to exhaust his available state judicial remedies as to his Equal Protection claim, and in the alternative, failed to allege

1 sufficient facts to state an actionable claim for habeas corpus relief. This matter was referred to
2 United States Magistrate Judge Nita L. Stormes pursuant to 28 U.S.C. § 636(b)(1)(B). On May 26,
3 2009, the Court adopted Magistrate Judge Stormes' Report and Recommendation recommending the
4 Court dismiss the Equal Protection claim for failure to state a claim for relief. (Doc. No. 10.)

5 Accordingly, the only remaining issue was Petitioner's due process claim. On July 20, 2009,
6 Respondent filed an Answer to the Petition. (Doc. No. 17.) On September 2, 2009, Petitioner filed a
7 Traverse. (Doc. No. 19.) On December 18, 2009, Magistrate Judge Stormes issued a Report and
8 Recommendation recommending the Court deny the petition for writ of habeas corpus, and requiring
9 any objections to be filed no later than January 15, 2010. (Doc. No. 20.) To date, Petitioner has not
10 filed objections.

11 The Court HEREBY ADOPTS Magistrate Judge Stormes' well-reasoned Report and
12 Recommendation in its entirety, and DENIES the petition for writ of habeas corpus. The Clerk of the
13 Court shall close the case.

14 **IT IS SO ORDERED.**

15
16 **DATED: February 10, 2010**

17 
18 IRMA E. GONZALEZ, Chief Judge
19 United States District Court

20
21
22
23
24
25
26
27
28